## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:17-cv-00732-MOC-DSC

HYUNDAI MOTOR COMPANY HYUNDAI MOTOR AMERICA, INC.,	)
Plaintiffs,	)
Vs.	) ORDER
DIRECT TECHNOLOGIES INTERNATIONAL, INC.,	) )
Defendant.	) )

**THIS MATTER** is before the Court on defendant's Motion to Dismiss for Failure to State a Claim on Which Relief Can be Granted Pursuant to Fed.R.Civ.P. 12(b)(6). Having considered defendant's motion, plaintiffs' Opposition (#23), and defendant's Reply (#28), and reviewed the pleadings, the Court enters the following Order.

## **ORDER**

IT IS, THEREFORE, ORDERED that defendant's Motion to Dismiss for Failure to State a Claim on Which Relief Can be Granted Pursuant to Fed.R.Civ.P. 12(b)(6) (#19) is **DENIED** without prejudice as to defendant reasserting its substantive argument at summary judgment after the close of discovery.

The Court does note, as did defendant, that the Opposition is not accompanied by a Certificate of Service as required under L.Cv.R 5.3(c). While such is error, the Court will not

dismiss the Complaint, as defendant suggests in its Reply, as it is readily apparent from the NEF that defendant was electronically served with a copy. Plaintiff shall, however, rectify the error by filing a Certificate of Service.

Signed: April 26, 2018

Max O. Cogburn J.

United States District Judge